

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DONALD C. HUTCHINS

Plaintiff

v.

CARDIAC SCIENCE, INC.

Defendant

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Civil Action: 04-30126-MAP

**DEFENDANT COMPLIENT CORPORATION'S MEMORANDUM IN OPPOSITION
TO PLAINTIFF'S "MOTION TO SCHEDULE JURY TRIAL"**

Plaintiff, Donald C. Hutchins ("Plaintiff"), recently filed a "Motion to Schedule Jury Trial" (the "Motion"). This Motion is nothing more than a regurgitation of the arguments set forth in Hutchins' opposition to Compliant's Motion for Summary Judgment, Hutchins' Motion for Summary Judgment, and Hutchins' oral arguments put forth at the January 4, 2006 hearing of same. Given this, Compliant incorporates by reference herein the facts, arguments and law set forth in its Motion for Summary Judgment, Compliant's Memorandum in Opposition to Hutchins' Motion for Summary Judgment, and the arguments made in support of Compliant's oral Motion for Summary Judgment on its Counterclaims as stated at the January 4, 2006 hearing.

Simply put, there are no questions of material fact present on any of the pending claim that warrant a jury trial. Accordingly, Compliant, again, respectfully requests that summary judgment be entered in its favor on Hutchins' claims and Compliant's counterclaims and, further, that the Court deny Hutchins' Motion for Jury Trial.

Respectfully submitted,

/s/ John J. Egan
JOHN J. EGAN (151680)
EGAN, FLANAGAN & COHEN, P.C.
PO Box 9035
67 Market Street
Springfield, MA 01102-9035
(413) 737-0260
FAX (413) 737-0121

WILLIAM E. COUGHLIN (0010874)
COLLEEN MORAN O'NEIL (0066576)
CALFEE, HALTER & GRISWOLD LLP
1400 McDonald Investment Center
800 Superior Avenue
Cleveland, Ohio 44114
(216) 622-8200
(216) 241-0816 (facsimile)

Attorneys for Compliant Corporation

CERTIFICATE OF SERVICE

A copy of the foregoing Defendant Compliant Corporation's Memorandum in Opposition to Plaintiff's "Motion for Jury Trial" is being served by operation of the Court's electronic filing system and First Class United States Mail this 17th day of January, 2006, upon:

Donald C. Hutchins
1047 Longmeadow Street
Longmeadow, Massachusetts 01106

Paul H. Rothschild, Esq.
Bacon & Wilson, P.C.
33 State Street
Springfield, MA 01103

And

Randall T. Skaar, Esq.
Scott G. Ulbrich
Patterson, Thunte, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2100

Attorneys for Defendant Cardiac Science, Inc.

/s/ John J. Egan
One of the attorneys for Compliant
Corporation